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# 2017 Policy Improvement Recommendations for Minnesota's Family Child Care Professionals

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**Prepared for:** Legislative Task Force on Access to Affordable Child Care  
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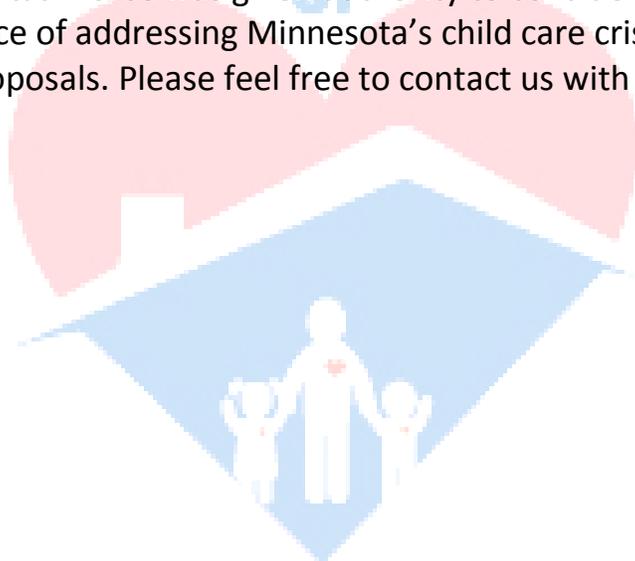
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## I. Introduction and history

The mission of the Minnesota Association of Child Care Professionals (MACCP) is to strengthen the family child care profession by advocating for policy improvements, offering additional supports and services to providers, and by promoting family child care as an exceptional option for quality child care and early childhood education. MACCP is a 501C(4) non-profit organization comprised entirely of licensed family child care providers from Minnesota. We are the only state-based child care association run exclusively by providers, giving the profession a unique opportunity to participate in policy discussions that have a profound impact on our livelihoods, without outside influence.

MACCP solicits input from our members in a variety of ways, including communication through social media, quarterly newsletters, and annual policy surveys. With this feedback as our guide, our organization is offering the following recommendations for improvements to the child care industry. For organizational purposes, we have broken our recommendations into the 11 different areas the task force was given authority to consider. We thank you for recognizing the importance of addressing Minnesota's child care crisis and for taking time to read and consider our proposals. Please feel free to contact us with any questions or concerns.

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## II. Factors that contribute to child care costs for providers and families and recommended solutions

In addition to the state-wide shortage, this has also caused costs to rise dramatically as parents find their only option is center care, which often costs twice as much as licensed family child care. With this in mind, we strongly encourage you to focus on family child care and offer the following recommendations:

**Recommendation 1)** Address the unique challenges presented by operating a child care in a home, where families live, by

- a) limiting the Department of Human Services to regulating family child care homes on issues directly relating to the health and safety of children;
- b) requiring DHS to demonstrate a reasonable need for any current and/or future regulation and that this need cannot be met through less intrusive means; and
- c) requiring the state to learn about potential burdens resulting from each proposed regulation by seeking feedback directly from all providers—not just a few selected stakeholders chosen by DHS—at least 60 days before legislation is introduced.

**Recommendation 2)** Address challenges presented by background studies of providers and family members living in or visiting the home by

- a) Limiting disqualifications only to criminal history that demonstrates a threat to the health or safety of children, eliminating disqualifications such as issuance of a bad check or credit card fraud;
- b) Limiting disqualifications to criminal convictions, thus, removing the ability to disqualify based on a preponderance of evidence without hearing and approval by an administrative law judge;
- c) Allowing providers the ability to continue to operate under a conditional license that requires a disqualified family member to remain off the property while children are in care;
- d) Prohibiting DHS from using sealed or juvenile records unless an administrative law judge agrees that excluding these records endangers the health and safety of children;
- e) Requiring DHS and county licensors to initiate background checks within 5 business days of receipt; and
- f) Waiving background studies for active members of the military.

**Recommendation 3)** Reduce liability, which increases costs and has contributed to the loss of providers by

- a) Removing the positive supports rule for family child care and center based care. This rule was not meant to apply to child care and creates unreasonable and unattainable expectations that will put children at risk;
- b) Preventing homeowners' insurance companies from denying homeowners' policies to family child care providers who carry a liability policy; and
- c) Requiring health insurance companies to cover injuries or illness that occur on a family child care or center property when the injury or illness did not occur due to the abuse or negligence of the provider.

**Recommendation 4)** Address the unique challenges facing providers who are operating a licensed facility within their homes while trying to raise their own children by

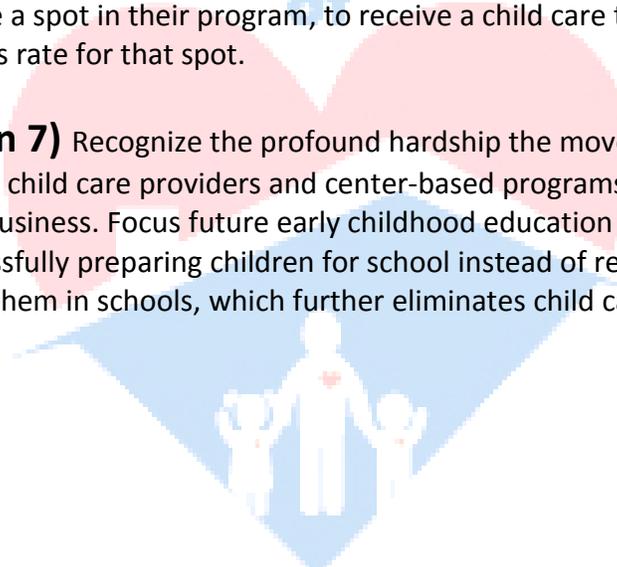
- a) Allowing providers to care for their own children without licensing rules, regulations, and supervision expectations. Children would still count towards the provider's capacity; and
- b) Allowing a spouse, partner, or other family member to be in the residence, caring for the provider's own children on or off premises, without fulfilling training requirements.

**Recommendation 5)** Protect providers from false accusations by

- a) Making it a crime to knowingly report false allegations against a DHS licensed program;
- b) Allowing providers to seek restitution from individuals who are found to have made false allegations, including, but not limited to, legal fees and loss of revenue; and
- c) Requiring individuals to include identifying information when reporting abuse, neglect, or licensing violations. If the allegation is determined not to have occurred and the complainant gave knowingly false information, their identifying information provided in the report becomes public information.

**Recommendation 6)** Allow all providers to offset the cost of caring for their own children, ages 10 and under who take a spot in their program, to receive a child care tax credit, regardless of income, based on their business rate for that spot.

**Recommendation 7)** Recognize the profound hardship the move towards universal preschool has had on both family child care providers and center-based programs that rely on preschool enrollment to stay in business. Focus future early childhood education efforts on existing programs that are already successfully preparing children for school instead of removing children from these programs and placing them in schools, which further eliminates child care options for families.

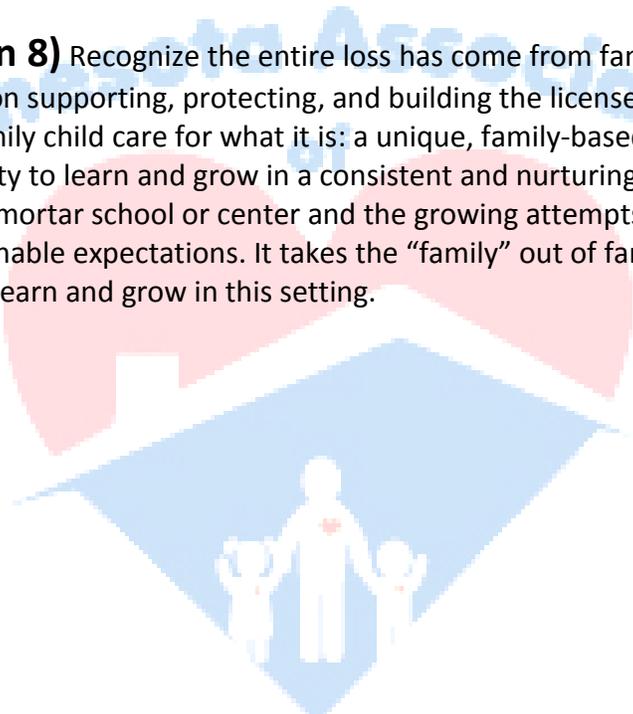


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### III. Causes of the child care shortage in greater Minnesota (and beyond) and recommended solutions

As the task force solicited testimony from child care providers and stakeholders, many different observations and hypothesis were heard. However, as family child care providers came from across the state to share testimony, the overwhelming consensus was that there has been a drastic change in the manner of oversight, one that has become increasingly punitive and unsupportive. Family child care providers testified of fear, wrongful negative actions, and a strong desire to comply with rules; yet they are unable to do so because rule interpretations are constantly changing. One of the most important statistics garnered from the task force's collection of information was that **the entire child care shortage has come from the family child care profession.** Center and school-based child care slots have *increased* while family child care has faced an unprecedented loss of providers. We offer the following proposals to address this issue:

**Recommendation 8)** Recognize the entire loss has come from family child care and focus the majority of resources on supporting, protecting, and building the licensed family child care field. Make the choice to value family child care for what it is: a unique, family-based environment that offers children the opportunity to learn and grow in a consistent and nurturing home setting. Family child care is not a brick and mortar school or center and the growing attempts to morph it into such creates unrealistic and unattainable expectations. It takes the "family" out of family child care and denies children the choice to learn and grow in this setting.



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#### IV. Recommendations to increase access to culturally appropriate child care

**Recommendation 9)** Recognize that family child care offers the most flexible opportunities for culturally sensitive care in Minnesota, where parents can choose a provider who meets their religious and cultural needs, and focus legislative solutions on building the number of family child care homes from all ethnic and religious backgrounds.

**Recommendation 10)** Consider a waiver for licensing expectations that do not impact the health and safety of children when they conflict with religious or cultural needs.



## V. **Obstacles and challenges for pre-service and in-service training, and recommendations for improvement**

Training is an essential part of building a well-qualified child care and early childhood education field. However, training needs to be worthwhile, beneficial, and cannot create a burden or it will become a barrier to licensure. When considering changes to the pre-service and in-service training requirements, we encourage you to focus on quality vs. quantity. We also strongly encourage you to remember that licensed family child care providers work long hours and have increasingly fewer options to meet their educational needs. We offer the following recommendations:

**Recommendation 11)** Eliminate unnecessary rules that restrict the number of trainers, such as requiring promotion or support of government programs (Parent Aware, for example) or college degrees to teach subjects where a degree is not necessary. Take into consideration a trainer's experience in the child care field when determining if other requirements should be waved.

**Recommendation 12)** Streamline required training components, such as SUIDS, AHT, Supervising for Safety, and any new requirements resulting from the Child Care Development Block Grant reauthorization into one 2-hour class as an annual refresher course for license holders who have already taken the full courses. Allow an option for this to be a self-study course available for all providers online or through their licensor.

**Recommendation 13)** Remove the annual child growth/development and behavior guidance requirement, allowing providers more flexibility to take courses they need for their own personal growth. We recommend it remain as a pre-licensure requirement.

**Recommendation 14)** Allow Training of the Trainer (TOT) classes for required courses to be taken by anyone capable of training them, regardless of education level or training experience. Once someone has taken a TOT, any refreshers or updates of this course must be available to them free of charge.

**Recommendation 15)** Change language in 245A.50 for all required trainings so providers must complete classes before their relicensing or off-year anniversary instead, of 12 or 24 months from the date the class was last taken. Classes that are to be taken annually would need to be completed once during each licensed year and classes that are to be completed every 2 years would need to be taken before a relicensing visit at the end of a two-year term. This would protect providers from a violation if their class is canceled or unavailable the same month it was taken one or two years prior.

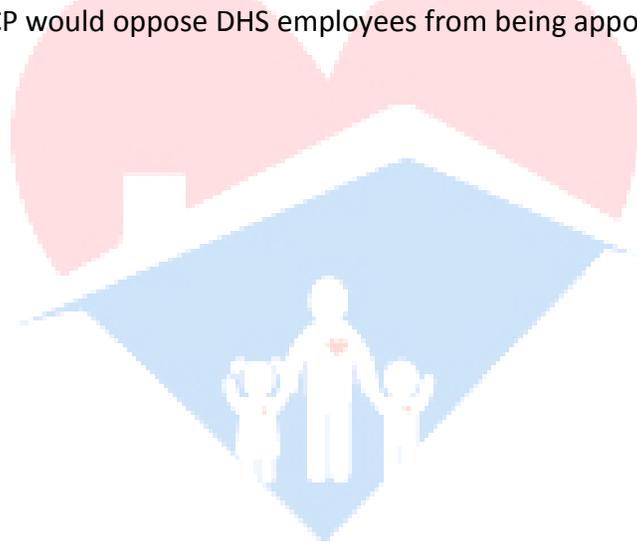
**Recommendation 16)** Simplify training requirements for helpers/substitutes as follows:

- a) Helpers who assist with care on a regular basis under the supervision of the license holder are exempt from training requirements. Helpers assisting with care outside of the provider's supervision are considered substitutes and must follow training requirements for substitutes.
- b) Increase the number of days a substitute can provide care in one program from up to 30 days to either 60 days or 180 hours, whichever is greater.
- c) Eliminate training requirements for the required emergency substitutes.
- d) Increase the amount of time a formerly licensed provider can reopen their license without having to retake all the pre-licensure requirements, encouraging providers who have closed to reopen.

## VI. Concerns and advisement regarding the proposed Board of Child Care

MACCP members have concerns about the proposed board of child care, specifically who would comprise the board, how appointments would be determined, and what authority the board would have. Rather than a permanent board of child care, MACCP would prefer to see a permanent legislative committee or task force to address ongoing issues. A legislative committee or task force has knowledge of or access to independent research and history of testimony, as well as accompanying documents from when laws were passed. This will allow legislative intent to play a larger role in interpretations and will allow lawmakers an opportunity to witness the changing interpretations, seeing firsthand what areas need to be changed. Regardless what body is formed, MACCP makes the following recommendations:

**Recommendation 17)** Create a permanent board, committee, or task force to address child care issues. This entity should be given authority to overrule DHS when improper applications of law take place and have the ability to impose sanctions when abuse of power has been determined to have occurred. This entity should have the ability to provide oversight of how funds in the Child Care Licensing Division of DHS are spent and be capable of auditing procedures for common practices, such as background checks, corrective and negative actions, and appeals. To ensure the independence of this committee, MACCP would oppose DHS employees from being appointed to it.



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## VII. Correction orders, negative actions and oversight issues and recommendations for improvement

We all want to ensure the health and safety of children and protect them from potential dangers. We should also expect clear expectations, consistency, and fairness in enforcement of the rules and regulations in place to protect them. We offer the following proposed changes to the current, punitive system for correction orders and negative actions:

**Recommendation 18)** Require licensors to notify providers of any potential violations before leaving the provider's home.

**Recommendation 19)** Require county licensors to seek clarification from DHS when a dispute over interpretation arises, before issuing a correction order or negative action.

**Recommendation 20)** While a corrective action is under appeal, it does not need to be posted in the provider's residence until the appeals process is complete.

**Recommendation 21)** Overturned negative actions must be removed entirely from online public records.

**Recommendation 22)** When a negative action is appealed to an administrative law judge, that Judge's ruling must be final; DHS cannot overrule the judge.

**Recommendation 23)** Eliminate Rule 2 and compile all applicable rules and regulations into one area of statute so adjustments can be made when needed and providers can find all governing regulations in one place.

**Recommendation 24)** Require improved communication of potential changes by

- a) Requiring any changes in interpretation to be approved by an outside entity such as the proposed board of child care or legislative committee;
- b) Require 60 days notice be given to providers before violations are issued on changes; and
- c) Require DHS to communicate all rule/regulation changes directly to providers at the same time county licensors are given notice.

**Recommendation 25)** Allow and encourage county licensors to recognize the unique challenges family child care providers face operating inside their homes, where people live and without a separate director to handle all paperwork. Encourage licensors to waive minor infractions or temporary infractions that do not pose a health and safety threat; for example, a provider who runs out of paper towels in the bathroom and hasn't had time to replace the roll when her licensor shows up for an inspection or not having the name of a dentist on an enrollment form of an infant who doesn't have a dentist. We encourage the use of a tiered system for infractions. This would reflect the seriousness of the more harmful ones while allowing providers to simply make small changes without a permanent violation on their record if they were minor infractions that do not impact the health or safety of children.

## VIII. Proposal for requiring training for county licensors to improve consistency and fairness

During the 2016 legislative session, there were two proposals requiring training for county licensors but they were very different. The one supported by DHS would have resulted in a more adversarial means of oversight and was void of additional support or protection of the providers who have left this field by the thousands over the last five years. It is critical: if we are to remedy this child care crisis, we must change the way oversight is provided, not make it worse. MACCP offers the following recommendations:

**Recommendation 26)** Require all county licensors to receive training from DHS before performing inspections and enforcing rules. This training must include:

- a) Information about provider's rights and the appeals process;
- b) In-depth instruction about the rules and regulations they will be enforcing including real-life scenarios they may encounter while out in the field; and
- c) Encouragement and instruction on mentoring and providing guidance to providers.
  1. This training must not include statements that pressure licensors to write more corrective or negative actions.

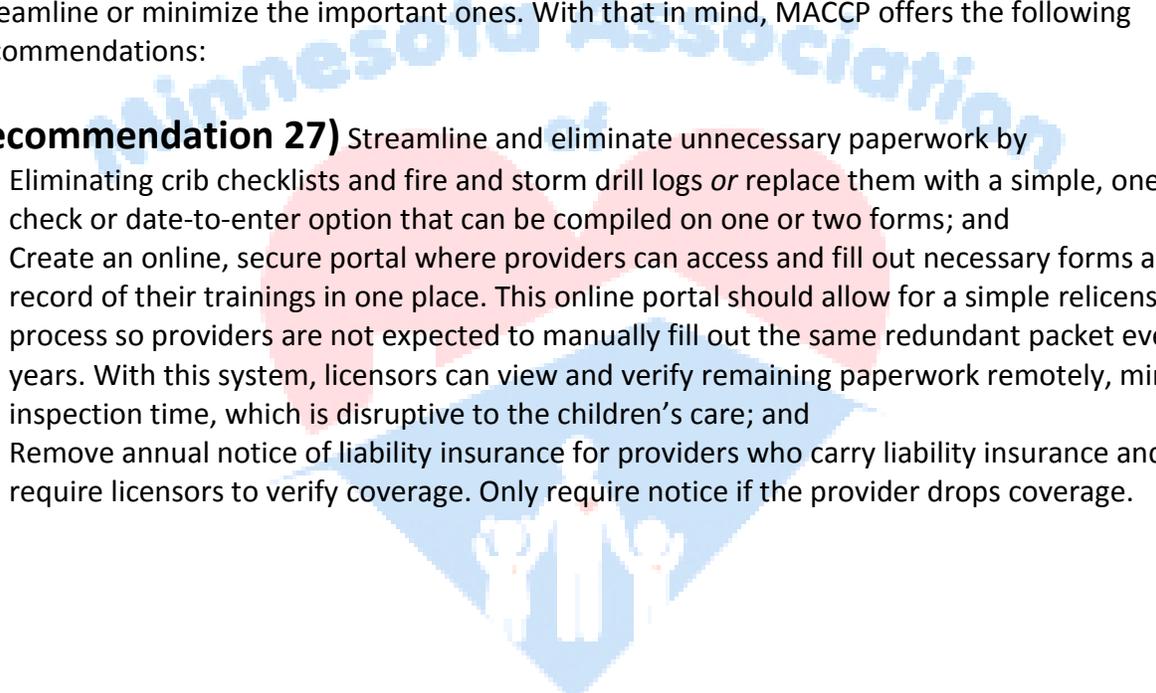


## **XII. Opportunities to reduce the burden of state licensure through streamlining paperwork and reducing redundant requirements**

Over the last decade, as issues have arisen, a common solution has been to require providers to fill out a form. We now have forms for monthly crib inspections, fire drill logs, storm drill logs, training logs, wading pool forms, trampoline forms, infant sleep position forms, liability insurance forms, as well as all our enrollment forms, emergency authorization forms, permission to administer forms (for simple things such as baby wipes), and our signed contracts with each family. Many of these things don't ensure children are safe as providers can easily just check the boxes without completing the task they claim to have completed. Much of this paperwork doesn't improve safety or make those providers who don't follow the rules actually follow the rules. Likewise, not having the paperwork filled out does not mean a provider hasn't done her required monthly storm drill or crib checklist. The paper simply adds more work and more papers to keep track of and more room for violations. It is time to reevaluate all the paperwork and reporting requirements and eliminate unnecessary ones while finding ways to streamline or minimize the important ones. With that in mind, MACCP offers the following recommendations:

### **Recommendation 27)** Streamline and eliminate unnecessary paperwork by

- a) Eliminating crib checklists and fire and storm drill logs *or* replace them with a simple, one-box-to-check or date-to-enter option that can be compiled on one or two forms; and
- b) Create an online, secure portal where providers can access and fill out necessary forms and keep record of their trainings in one place. This online portal should allow for a simple relicensing process so providers are not expected to manually fill out the same redundant packet every two years. With this system, licensors can view and verify remaining paperwork remotely, minimizing inspection time, which is disruptive to the children's care; and
- c) Remove annual notice of liability insurance for providers who carry liability insurance and, instead, require licensors to verify coverage. Only require notice if the provider drops coverage.



The logo for the Minnesota Association of Child Care Professionals is a large, light blue diamond shape. Inside the diamond, there is a stylized illustration of a caregiver in a white uniform standing between two children, one on each side, who are also in white. The text 'Minnesota Association' is written in a light blue, sans-serif font across the top of the diamond, and 'Child Care Professionals' is written in the same font across the bottom.

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### **XIII. Reforming the Child Care Assistance Program for parents and caregivers**

Child care assistance plays an important role in helping low-income parents afford child care so they can go to school or work. This is increasingly important, as costs have continued to rise and priced more and more families out of the market. Child care assistance is also supposed to help children from less advantaged backgrounds receive the same opportunities for quality care and early childhood education as their higher-income peers. MACCP strongly supports the right of each child to attend the child care program that best meets their individual needs, regardless of the cost. However, the current structure of the CCAP program, along with concerns about unionization, have led thousands of quality providers to regretfully decline to accept child care assistance payments on behalf of families. We have heard concerns about the lower rates. However, that does not hinder most providers from accepting families on CCAP as we set our rates and parents pay the difference between our rate and the CCAP rate, so we make the same regardless what rates are. Some of the factors that do contribute to the decision not to accept CCAP funds are the time it takes to get paid, the extra paperwork and records that must be kept, and the less stable nature of the program; families come in and out of the program and an inability to maintain paperwork on the parents' end, could result in the provider not being paid for the care provided. While the lack of funding does need to be addressed, this should be done after the program is fixed so providers have stability when accepting these families into our programs and can be paid on time for the work they do. Unlike a simple increase in funds and rates, fixing how this program works will vastly increase the options for low-income parents while offering the child care profession some stability. We offer the following solutions for the CCAP program:

**Recommendation 28)** Move from a system where hours are submitted and billed after care is provided to an electronic transfer system similar to the EBT program. Providers can pre-enroll and become registered and approved to provide care. When a parent qualifies for assistance, their allotted amount is placed onto their card, which can be used at any of the approved child care centers. Tuition payments can be made on the provider's due date. Allow parents to load additional funds onto their card to cover copays.

**Recommendation 29)** Require parents to keep attendance records and have the provider sign to verify, eliminating the instances when a provider does not get paid because a parent doesn't sign in.

**Recommendation 30)** Require the state to give providers a minimum of two weeks' notice when assistance is terminated, regardless of the reason.

**Recommendation 31)** Once the child care assistance program deficiencies have been corrected, MACCP supports eliminating the waiting list to receive CCAP funds and increasing rates to reduce parent copays. MACCP does not support raising CCAP rates past the Federal recommendation of 85% of market value because it will result in increased costs for private pay families, especially those in Greater Minnesota.

**Recommendation 32)** Expand access to Early Child Care Scholarships so they may be used in any licensed program that uses a state-approved preschool curriculum and assessment tools, which will help parents afford copays in addition to their CCAP funds and allow more to stay in their existing program. Expedite payment of scholarship funds to approved providers so they are not waiting months to be paid for their work.

#### **XIV. Benefits of exit interview and developing a system that works**

Exit interviews, especially when the family child care profession has seen such tremendous loss over the last 10 years, can be incredibly helpful in identifying factors and responding quickly to trends as they arise. However, exit interviews will not be productive if they are conducted in a way that doesn't allow providers to feel comfortable being honest without repercussions. For that reason, MACCP recommends the following:

**Recommendation 33)** Create uniform exit interviews to be conducted anonymously by an entity outside of DHS and county licensing units, such as the proposed board of child care or a legislative committee or taskforce. Data should be collected and made available to the public without any identifying statements or personal information.

